

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ALLEN BINSTOCK,
NATIONAL LABOR RELATIONS BOARD

Petitioner

vs.

MIDWEST TERMINALS OF TOLEDO
INTERNATIONAL, INC.

Respondent.

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Case Nos. 3:15 mc 71
 3:16 mc 8
 3:16 mc 9

JUDGE: JEFFREY J. HELMICK

**REPLY IN SUPPORT OF MOTION TO EXTEND DEADLINE
FOR PRODUCTION OF DOCUMENTS**

The Petitioner asserts that Midwest's Terminals of Toledo International, Inc.'s ("Midwest" or "Respondent") Motion to Extend the Discovery Deadline (June 15, 2016) set forth in this Court's May 13, 2016 Order should not be granted because the Respondent failed to provide any reasons for its inability to produce the requested documents within the original thirty day time frame and/or failed to provide any specificity with respect to the voluminous mount of documents. Midwest maintains that it has already specified in previous briefing before this Court the significant amount of documents that Petitioner has requested. Clearly the Petitioner fails to remember the sizeable amount of documents it is requesting to be produced. Amongst other things, the Petitioner is seeking production of the following categories of documents: (1) over 1,600 days of daily sign-in sheets for shape-up meetings; (2) nearly 2,000 days of records pertaining to whether or not non-bargaining unit employees were employed by Midwest; (3) 18 months of cargo transport records; (4) 18 months of trucking records; (5) 18 months of gate records; (6) 18 months of charged hour sheets for four (4) different groups of employees; and (7) 18 months of payroll records for four (4) different groups of employees. Respondent attempted

to gather the documents in 30 days. When it became clear that it could not meet the 30 day deadline, it provided Petitioner seven days' notice and requested a two week extension. Respondent maintains this was a reasonable request given the amount of documents being requested. Nevertheless, rather than extending Respondent the professional courtesy of a two week extension (as parties often do during discovery) the Petitioner chose to waste this Court's time and resources on a trivial matter. To be sure, this is not a situation where Midwest is now refusing to provide documents it already agreed to produce. Rather, Midwest is simply asking for a two week extension.

Additionally, the Petitioner is requesting that this Court issue an Order requiring Respondent to produce Chris Blakely ("Blakely") and the subpoenaed documents at the Cleveland Regional Office on June 29, 2016 at 10:00 a.m., Alex Johnson ("Johnson") on July 13, 2016 at 10:00 a.m. and Terry Leach ("Leach") on July 14, 2016 at 10:00 a.m., both at the same location. Notwithstanding, the Petitioner acknowledged that Respondent had agreed to comply with the subpoenas ad testificandum *on a date set by the parties*. See, ECF #13, PageID #220. Midwest's Counsel has already alerted Petitioner that it is not available until after July 12, 2016 with respect to the requested subpoena testimony of Johnson and Leach. See, ECF #13-1, PageID # 226. Specifically, Respondent requested Petitioner to provide multiple dates that Petitioner is available so that the parties could select a date that is agreeable to Midwest's Counsel, Johnson, Terry and the Petitioner. *Id.* Rather than provide the requested information, the Petitioner requested this Court to issue an Order requiring Johnson and Leach to appear on dates certain without knowing whether Johnson and Leach are available on said dates.

Furthermore, with respect to Blakely, Respondent notified Petitioner as far back as May 13, 2016 that Blakely is undergoing a medical procedure on June 16, 2016. See, ECF #13-1,

PageID #229. Subsequent to his medical procedure, Blakely will be on medical leave. As of this date, Respondent is not sure when Blakely will be available. As such, Petitioner is asking this Court to issue an Order requiring Blakely's to appear at the Region's Headquarters during a time it when Blakely is not available.

In conclusion, and based upon all of the above, Midwest respectfully requests this Court to grant its Motion to extend the deadline for the production of documents to June 29, 2016. Further, Midwest respectfully requests that this Court not issue an Order requiring Johnson, Leach and Blakely to appear before the Petitioner in Cleveland, Ohio on the dates noted herein.

Dated this 15th day of June, 2016.

Respectfully submitted,

/s/ Aaron T. Tulencik

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Reply was been filed electronically with the Clerk of Court on June 15, 2016 using the CM/ECF system. Notice of this filing will be sent to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ Aaron Tulencik
Aaron Tulencik